

Remarks

Claims 1-45 are pending in the present application. Reconsideration in view of the requested amendments and the following remarks is requested.

I. Allowable Subject Matter

Applicants thank the Examiner for indicating that claims 8-12 and 30-35 are allowed and that claims 4, 5, 7, 14, 15, 17, 20, 26, 27, and 29 are objected to but would be allowable if re-written in independent form. Claims 4, 7, 14, 15, 17, and 26 are now presented as independent claims incorporating the limitations of these claims as previously presented and should now be allowed. Claim 5 depends from claim 4 and claims 27 and 29 depend from claim 26. Therefore, these claims should be allowed.

Newly added claim 36 is like claim previously presented and objected to claim 4, but depends from newly amended claim 1.

Newly added claim 37 is like previously presented and objected to claim 5, but depends from new claim 36.

Newly added claim 38 is like previously presented and objected to claim 7, but depends from newly amended claim 1.

Newly added claim 39 is like claim previously presented and objected to claim 14, but depends from newly amended claim 13.

Newly added claim 40 is like previously presented and objected to claim 15, but depends from newly amended claim 13.

Newly added claim 41 is like previously presented and objected to claim 17, but depends from newly amended claim 13.

Newly added claim 42 is like previously presented and objected to claim 26, but depends from newly amended claim 25.

Newly added claim 43 is like previously presented and objected to claim 27, but depends from new claim 42.

Newly added claim 44 is like previously presented and objected to claim 29, but depends from new claim 42.

Each of these newly added claims are directed toward an independently patentable combination of features and should be allowed.

II. Rejection of Claims 22-24 Under 35 U.S.C. § 112, Second Paragraph

Claims 22-24 were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. Claim 22 has been amended by broadening this claim. Therefore, the rejection should be withdrawn.

III. Rejection of Claims 1, 2, 13, 16, 25, and 28 Under 35 U.S.C. § 102(b)

Claims 1, 2, 13, 16, 25, and 28 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 3,643,524 to Herring (Herring). Applicants traverse this rejection and request that it be withdrawn.

Claims 1 and 2:

Claim 1 has been amended to recite a foot pedal assembly comprising an arm member having a first end portion pivotally coupled at a first location to a pedal and a second end portion coupled at a second location to the base. This claim also requires the second location to be below the first location when the pedal is in the idle position.

Herring neither teaches nor suggests this requirement of claim 1. As best shown in FIG. 2 of Herring, the arm member 66 extends upwardly from a first location where it is coupled to pedal 60 to a second location where it is coupled to base 58. In contrast to claim 1, the second location where the arm member is coupled to the base is above the first location where the arm member is coupled to the pedal when the pedal is in the idle position. Accordingly, Applicants device as set out in claim 1 is not anticipated by Herring and is allowable.

Claim 2 depends from claim 1 and is allowable for the reasons given above in support of claim 2 and because claim 2 sets forth an independently patentable combination of features.

Claims 13 and 16:

Claim 13 has been amended to recite a segmented pedal support portion having a first upper segment and a second lower segment, in which the upper segment is pivotally coupled to the lower segment to permit pivoting of the lower segment relative to the floor of the vehicle about a pivot axis extending through the upper segment and the lower segment.

As shown in FIG. 2 of Herring, and assuming for purposes of discussion only that member 68 of Herring is a lower segment and member 78 is an upper segment, the lower segment 68 of the Herring device is pivotal about pin 64, which is spaced from the upper segment 78. Thus, in contrast to the claimed apparatus, the pivot axis of lower segment 68 (which is defined by pin 64) in the Herring device does not extend through the upper segment 78. Accordingly, Applicants device as set out in claim 13 is not anticipated by Herring and is allowable.

Claim 16 depends from claim 13 and is allowable for the reasons given above in support of claim 13 and further because claim 16 recites that the upper segment of the pedal support

portion comprises a carrier bracket that threadably engages the rotatable screw of the fore-aft position adjuster.

As pointed out by the Examiner, the carrier bracket of the Herring device is the upper end portion (called a "flanged portion" in the action) of base 58. See action, page 3, lines 10-11. Thus, the Examiner concedes that upper segment 78 does not comprise the carrier bracket in the Herring device. As shown in FIG. 2 of Herring, upper segment 78 is understood to be actually bolted to support structure 10.

Claims 25 and 28:

Claim 25 has been amended to recite a support for supporting a foot pedal comprising a vertical upper end portion for extending generally parallel to a vehicle wall, a horizontal lower end portion for extending generally parallel to the vehicle floor, and an angled intermediate portion extending between the upper end portion and the lower end portion, such that the upper end portion, the lower end portion, and the intermediate portion define a shape that generally corresponds to the shape defined by the wall, the floor, and toe board. Herring neither teaches nor suggests the apparatus of claim 25.

The Examiner contends that the Herring device has a vertical upper end portion comprising the vertical upper end of carrier member 58, a horizontal lower end portion comprising link 75, and an intermediate portion comprising arm 66. See action, page 4. As shown in FIG. 2 of Herring, arm 66 extends below link 75 and the vertical upper end of carrier member 58. Although the inside of the vehicle driver compartment is not shown in Herring, the arrangement of arm 66, link 75, and the upper end portion of carrier member 58 clearly does not correspond to the shape of a driver compartment interior having a vertical wall, a horizontal floor, and an inclined toe board extending between the floor and wall.

Claim 28 depends from claim 25 and is allowable for the reasons given above in support of claim 25 and because claim 28 sets forth an independently patentable combination of features.

IV. Rejection of Claims 25 and 28 Under 35 U.S.C. § 102(b)

Claims 25 and 28 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 3,288,239 to Ristau (Ristau). Applicants traverse this rejection and request that it be withdrawn.

Claim 25, as amended, recites a support for supporting a foot pedal comprising a vertical upper end portion, a horizontal lower end portion, and an angled intermediate portion. Claim 25 also requires that the upper end portion comprise a threaded bracket configured to engage a screw for adjusting the fore-aft position of the support *while maintaining the elevation of the support* upon rotation of the screw. In contrast to the claimed apparatus, the support 50 of the Ristau device is adjustable in a direction generally parallel to the axis of the steering column 22 and along the length of the steering column, which extends at an inclined angle with respect to the floor of the vehicle (see FIGS. 2 and 4 of Ristau). Thus, Ristau's support 50 cannot be adjusted in the fore-aft direction while maintaining the elevation of the support above the vehicle floor, as recited in claim 25. That is, the support 50 is raised or lowered as the fore-aft adjustment is accomplished. Accordingly, Applicants device as set out in claim 25 is not anticipated by Ristau and is allowable.

Claim 28 depends from claim 25 and therefore is allowable along with claim 25. Claim 28 is also independently patentable over Ristau because claim 28, as amended, recites that upper end portion is pivotally coupled to the intermediate portion. In contrast, as shown in FIG. 4 of

Ristau, the vertical upper end portion of support 50 is not pivotally coupled to its angled intermediate portion.

V. Rejection of Claims 13, 18, 19, and 21 Under 35 U.S.C. § 102(e)

Claims 13, 18, 19, and 21 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application Publication No. 2002/0053254 to Rixon et al. (Rixon). Applicants traverse this rejection and request that it be withdrawn.

Claim 13:

Claim 13, as amended, recites a foot pedal assembly comprising a segmented pedal support portion having a first upper segment and a second lower segment and a foot pedal carried by and *pivotally coupled* to the lower segment of the pedal support portion. In contrast, the foot pedal assembly of Rixon comprises a pedal 120 that is secured in a non-pivotal coupling to its respective pedal support (lever 118 and mechanism 122), as shown in FIG. 1 of Rixon. Thus, the apparatus of claim 13 is not anticipated by Rixon and is allowable.

Claims 18, 19, and 21:

Claim 18 is allowable because Rixon neither teaches nor suggests an adjustable foot pedal assembly comprising a pedal support portion and a foot pedal carried by the pedal support portion, in which an upper end portion of the pedal support portion is configured to be mounted for vertical movement *along the wall* of a vehicle to permit adjustment of the vertical position of the upper end portion of the pedal support portion.

The Examiner contends that Rixon's pedal support portion 122 is configured to be mounted for vertical movement along the wall of a vehicle. See action, page 5. Applicants respectfully disagree. As shown in FIG. 1 of Rixon, pedal support portion 122 is mounted for

movement along plate 116, which extends outwardly from the wall 114 of the vehicle. The entire assembly 110 is bolted at a fixed position on wall 114. Support portion 122 clearly is not configured to move along wall 114.

Claims 19 and 21 depend from claim 18 and are allowable for the reasons given above in support of claim 18 and further because each dependent claim sets forth an independently patentable combination of features.

Claim 19 is independently patentable because Rixon neither teaches nor suggests a mounting bracket that is coupled to the pedal support portion and configured to be slidably mounted to the vehicle wall, as recited in claim 19. The Examiner contends that the Rixon device shown in FIG. 1 includes a C-shaped mounting bracket that is slidably mounted to the vehicle wall 114. See action, page 5. However, the mounting bracket that is mounted to wall 114 in FIG. 1 of Rixon is bolted to the wall and is not mounted for sliding movement relative to the wall.

Claim 21 is independently patentable because Rixon neither teaches nor suggests a bracket member that is coupled to the upper end portion of the pedal support portion and threadably engages a rotatable screw, as recited in claim 21. In the rejection of claim 21, the Examiner states that Rixon's threaded nut 126 (FIG. 1) comprises a bracket member that threadably engages a screw 124. See action, page 5, lines 15-17. However, the Examiner also states that the threaded nut 126 is the upper end portion of the pedal support portion. See action, page 5, lines 1-2. Thus, if nut 126 is the mounting bracket, then Rixon's pedal support does not include an upper end portion coupled to the nut. On the other hand, if nut 126 is the upper end portion of the pedal support portion, then Rixon does not include a mounting bracket that is

coupled to the upper end portion. In either case, Rixon does not satisfy the structural limitations of claim 21.

VI. Rejection of Claims 3, 6, and 22-24 Under 35 U.S.C. § 103(a)

Claims 3, 6, and 22-24 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Herring in view of U.S. Patent No. 5,133,225 to Lundberg et al. (Lundberg). Applicants traverse this rejection and request that it be withdrawn.

Claims 3 and 6:

Claims 3 and 6 depend from claim 1 and are allowable for the reasons given above in support of claim 1 and because each dependent claim sets forth an independently patentable combination of features.

Claim 3 is independently patentable because neither Herring nor Lundberg teaches or suggests a roller rotatably mounted to the arm member and positioned for rolling contact along the base, as recited in claim 3.

In regards to claim 3, the Examiner contends that it would have been obvious to “modify the apparatus of Herring as to provide rollers on the arm” because “such an arrangement decreases the friction force between the floor and the base to ease adjustment of the pedal.” See action, page 7. This contention is incorrect.

As shown in FIG. 2 of Herring, the arm 66 of Herring is connected to base 58 at pivot pin 64. Because arm 66 does not move along the length of base 58, there would be no reason to add a roller to the portion of arm 66 that is connected to base 58. Further, arm 66 is also connected to cable 72. Thus, as Herring is presently understood, it does not appear that one could modify

arm 66 so as to move along the length of base 58 without rendering the device inoperable. Such a modification is simply not suggested.

Claim 6 is independently patentable because neither Herring nor Lundberg teaches or suggests a roller rotatably coupled to the lower end portion of the base and positioned for supporting the base on the vehicle floor or a rub pad placed on the floor, as recited in claim 6.

As shown in FIG. 1 of Lundberg, Lundberg discloses a pedal assembly 10 that comprises a pedal 12 pivotally connected to a base 14, which is supported on the vehicle floor. See Lundberg, col. 2, lines 61-68. A pivot arm 30 having a roller 58 is disposed between base 14 and pedal 12. See Lundberg, col. 3, lines 13-15. The roller 58 of Lundberg is used to reduce sliding friction of member 38 along base 14 when the pedal 12 is pivoted toward and away from the base 14.

In contrast to the claimed apparatus, Lundberg fails to disclose or suggest a roller rotatably that is coupled base 14 and positioned to support the base on the vehicle floor or a rub pad on the floor. In addition, the pedal assembly 10 of Lundberg does not include an adjustment mechanism for selectively varying the fore-aft position of base 14 and pedal 12 relative to a vehicle wall. Since Lundberg's pedal assembly is stationary relative to the vehicle floor in the fore-aft direction, Lundberg does not provide any reason or motivation to mount a roller to base 14 for rolling contact with the vehicle floor or rub pad placed on the floor.

Further, Lundberg at best teaches positioning a roller between a pedal and a base (see FIG. 1). Thus, if one were to modify Herring to incorporate the teachings of Lundberg, one would position a roller between Herring's pedal 60 and base 58, such as by connecting a roller at the lower end of arm 66 for rolling contact with the underside of pedal 60. However, there is no teaching or suggestion in the cited references for a roller coupled to the lower end portion of a

base and positioned for supporting the base on the vehicle floor or a rub pad placed on the floor, as recited in claim 6.

Here, the only motivation to add a roller to the base of a pedal assembly for supporting the base on the vehicle floor has come from Applicants disclosure, which cannot be used in hindsight to support an obviousness rejection.

Claims 22-24:

Claim 22 is allowable because neither Herring nor Lundberg teaches or suggests a pedal support means, a pedal coupled to the pedal support means, adjustment means for adjusting the position of the pedal support means and the pedal toward and away from a vehicle wall, and roller means mounted to the pedal support means and positioned for rolling contact with a pedal assembly support surface when the adjustment means is activated to adjust the position of the pedal support means.

Referring to FIG. 1 of the application, in one embodiment of claimed apparatus, the pedal support means comprises base 22, the adjustment means comprises drive mechanism 66 and jack screw 64, and the roller means comprises roller 72. Roller 72 is positioned for rolling contact with a rub pad 74 when the drive mechanism 66 and screw 64 are activated to move the base 22 toward or away from the vehicle wall.

In the rejection of claim 22, the Examiner concedes that Herring fails to disclose a roller means mounted to a pedal support means and positioned for rolling contact with a pedal support surface when an adjustment means is activated to adjust the position of the pedal support means toward and away from the wall. See action, page 7. Lundberg does not make up for the deficiencies of Herring.

The Examiner contends that the Lundberg device includes “roller means (58) mounted to pedal support means (38) and positioned for rolling contact with a pedal assembly support surface (64).” See action, page 7. However, Lundberg’s roller means 58 is position between pedal 12 and base 14 and is not positioned for rolling contact with a support surface when the position of base 14 and pedal 12 is adjusted toward and away from the vehicle wall. Further, Lundberg does not even disclose or suggest varying the position of pedal 12 and pedal base 14 toward and away from the vehicle wall. Thus, Lundberg fails to provide any motivation to mount a roller to a base in the manner recited in claim 22. Moreover, if one were to modify Herring to incorporate the teachings of Lundberg, one would be led to position a roller between Herring’s pedal 60 and base 58 (e.g., at the lower end of arm 66), not at the lower end of base 58. Accordingly, claim 22 is not anticipated or rendered obvious by Herring or Lundberg (either alone or in combination), and is allowable.

Claims 23 and 24 depend from claim 22 and are allowable for the reasons given above in support of claim 22 and because each dependent claim sets forth an independently patentable combination of features.

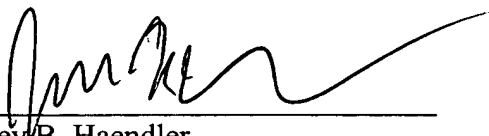
VII. Conclusion

The present application is in condition for allowance and such action is respectfully requested. If any further issues remain concerning this application, the Examiner is invited to call the undersigned to discuss such matters.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By



Jeffrey B. Haendler
Registration No. 43,652

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 226-7391
Facsimile: (503) 228-9446